Workers' Compensation Program

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Objectives of this Training

- Overview of the Federal Employees' Compensation Act (FECA)
- Types of Injuries and Forms
- COP and Controversion of COP
- Supervisor Requirements/Responsibilities under DoD 1400.25-M Subchapter 810
- EDI – Electronic Data Interchange
  - Filing Claims Electronically

Federal Employees' Compensation Act (FECA)

- Passed in 1916
- Exclusive remedy
- Non-Adversarial program – based on medical evidence
- Administered by the Dept. of Labor, Office of Workers' Compensation Program (OWCP)

Provisions of the Act

- Medical Coverage
- Continuation of Pay (COP)
- Wage Loss Compensation
- Schedule Award
- Vocational Rehabilitation
- Death/Burial Expenses – if death results from the work related injury

Office of Workers' Compensation (OWCP)

- Claims Examiner at OWCP has decision making authority on entitlement to benefits.

- 5 Basic Elements are considered by the Claims Examiner when deciding whether or not to accept a claim as a work related injury or illness.

5 Basic Elements

- Timely filed
  - 3 years from the date of injury
- Federal Civilian Employee
- Fact of Injury
  - factual and medical evidence
- Performance of Duty
- Causal Relationship

Burden of Proof

The Burden of Proof lies with the Injured Worker to establish each of the 5 Critical Elements in order to have the claim accepted by OWCP.

The Supervisor/Employing Agency will assist the Injured Worker in gathering needed information.

Types of Injury or Illness

- **Traumatic Injury** – caused by a specific event or series of events *during one work shift.*

- **Occupational Illness or Disease** – condition produced in the work environment over a period of *more than one day or work shift.*

Types of Injury Claims-Forms

- **Traumatic Injury – CA-1**
  - Form CA-1-Electronic filing using EDI
  - Form CA-16 Authorization for Exam and/or Treatment may be issued
- **Occupational Disease – CA-2**
  - Form CA-2 –Electronic filing using EDI
- **Wage Loss Compensation – CA-7**
  - Form CA-7 – Claim for Compensation

CA-1-Traumatic Injury

- Filed Electronically using Electronic Data Interchange (EDI)
- Injured Worker completes # 1 through 15
- Injured Worker must sign and date the completed form

CA-1 Traumatic Injury – Con’t

- Supervisor completes # 17 through 39
- Electronic claim is printed out
- Supervisor must sign and date
- Printed claim with original Injured Worker signature and original Supervisor signature must be taken to the ICPA within 24 - 48 hours
- ICPA is responsible for maintaining the original signatures in the compensation file

CA-16

- For Traumatic Injury claims ONLY
- Should be issued when there is urgent need for immediate medical treatment
- Must indicate specific medical provider
- Must have Supervisor or ICPA signature and date
- Cannot be issued to a military treatment facility

CA-16 Continued

- Obligates DoD for cost of medical treatment for 60 days from the date of issuance.
- Must issue within 4 hours of Injured Worker’s request for the CA-16.
- Employing Agency/Supervisor may refuse to issue the CA-16 if more than a week has passed since the injury.

CA-16 Continued

- Part A is completed by the Supervisor or ICPA and is given to the Injured Worker or to the medical facility providing treatment.
- Part B is completed by the medical facility and returned to the Injured Worker, Supervisor or ICPA.
- ICPA forwards the CA-16 to OWCP.

CA-2 Occupational Disease or Illness Claim

- Filed electronically using Electronic Data Interchange (EDI)
- Injured Worker completes #1 through 18
- Injured Worker must sign and date

CA-2 Occupational Disease or Illness – Con't

- Supervisor completes # 19 through 35
- Electronic claim is printed out
- Supervisor must sign and date
- Printed claim with original Injured Worker signature and original Supervisor signature must be taken to the ICAP within 24 - 48 hours
- ICPA is responsible for maintaining the original signatures in the compensation file

CA-7 – Claim for Compensation

- Claim for wage loss compensation – for wages lost due to work related injury.
- CA-7 is either faxed or mailed to OWCP.
- CA-7 is used in both Traumatic Injury and Occupational Disease/Illness claims.

CA-7 – Claim for Compensation

Wage Loss Compensation is paid at:

- 75% of date of injury pay if there is a dependent in the household (spouse or child)
- 66 2/3% of date of injury pay if there is no dependent in the household
- Wage loss compensation is tax free

Choice of Attending Physician

- Injured Worker has the right to choose their own attending physician.
- Injured Worker is NOT required to use a Base medical facility.
- A chiropractor is not considered a physician in most instances. Chiropractic services are limited to subluxation of the spine.

COP & Controversion of COP

COP – Continuation of Pay

In Traumatic Injury cases only, where the claimed work injury causes time to be lost from work (intermittent or continuous), the Injured Worker is entitled to COP - continuation of regular pay for up to 45 days.

COP

- Traumatic Injury Claims Only.
- Injured Worker must file the CA-1 within 30 days of the date of injury.
- Intermittent or continuous absence from work due to the injury must begin within 45 days of the date of injury.

COP

- Injured Worker must submit medical evidence of disabling injury to the employing agency within 10 calendar days after claiming continuation of pay on the CA-1.

COP

- EMPLOYING AGENCY MUST PAY COP if:
  - CA-1 filed within 30 days of the date of injury.
  - Disability begins within 45 days of the date of injury.
  - Injured Worker has provided medical evidence of disability within 10 days of claiming COP.

COP

- If the preceding conditions are not met, COP may be withheld.
- There are several other, rather unusual, circumstances in which COP may be withheld including, but not limited to:
  - Willful misconduct
  - Employment has terminated

(Title 20, CFR, Chap 1, 10.203)

Controversion

- If all of the above conditions are met, (and therefore COP must be paid) AND there is still reason to believe the Injured Worker should not continue to receive COP, then COP should be “Controverted”.
- State clearly the reasons why you do not believe the Injured Worker should continue to receive COP.

Controversion

- Controversion is indicated on the CA-1
  - Block 36
  - May attach a written memo that provides full explanation.
  - Notify the Injured Worker that the employing agency is controverting COP.
  - OWCP will consider controversion and notify the employing agency if/when COP can be terminated.

Controversion

- Possible reasons to controvert COP
  - Fact of Injury – reason to believe the medical condition being claimed did not occur at work.
  - Diagnosis is not consistent with the incident that occurred.
  - Injured Worker has similar or other pre-existing medical condition.
  - Injured Worker delayed reporting the injury (but is still within 30 days of the claim for COP).

Controversion

- CONTROVERSION MUST OCCUR AT THE TIME THE CA-1 IS FILED - OR VERY SHORTLY THEREAFTER

Controversion of COP
vs.
Challenging the Claim

- Controversion of COP – position that Injured Worker should not be entitled to 45 days of COP.
- Challenging the Claim – position that one of the 5 critical elements has not been met – therefore the claim should not be accepted as a work related injury.

  (Timely filed, employee, FOI, POD, CR)

Challenging a Claim

- ICPA will prepare the challenge document but will need Supervisor's input.
- Challenge must be based on legal argument or evidence.
  - Legal Argument - one of 5 critical elements not established
  - Evidence - results of investigation or subsequent witness statements

Challenge

- Challenge must be submitted to OWCP before the case is accepted.
- Once the case is accepted, there is no recourse if the employing agency disagrees with the OWCP decision.
- The injured worker has appeal rights if he/she disagrees with the OWCP decision.

Monitoring Medical Progress

- Supervisor should maintain contact with the Injured Worker and obtain periodic medical reports from the Injured Worker and his/her attending physician.
- CA-17 form is used to monitor the Injured Workers' progress and recovery.

CA-17 – Monitoring Medical Progress

- Supervisor indicates physical requirements of the Injured Worker’s date of injury job on the left side of the form, and indicates whether light duty is available.
- Injured Worker takes a CA-17 to each medical appointment.
- Attending physician indicates the Injured Worker’s work restrictions.
- Injured Worker returns the CA-17 to the Supervisor.

Light Duty

- When the medical evidence indicates the Injured Worker is no longer totally disabled, but rather, has some capacity to return to work, every effort should be made to make light duty available to make it possible for the Injured Worker to return to work as soon as possible.

Light Duty

- Make light duty available as soon as the medical evidence establishes the Injured Worker has some capacity to return to work.
- Light duty is anything less than full time, full duty.
- Light duty offer can be verbal, but must be followed up in writing.
- Work with the ICPA to produce the formal written job offer.

Nurse Intervention

- If total disability continues beyond initial 45 days.
- If Injured Worker seems to be showing little if any medical improvement.
- Nurse intervention can be requested by the employing agency…sooner is better than later.

Nurse Intervention

- Objective: RETURN TO WORK AS SOON AS POSSIBLE
- Obtain full work release or permanent work restrictions.
- Assist with return to work.
- Works with Injured Worker, Supervisor, ICPA and medical providers.
- 120 days with extension of time possible.

Vocational Rehabilitation

- After Nurse Intervention, if return to work during Nurse Intervention was not successful.
- Assist with return to work at the employing agency.
- If return to work is not possible with the employing agency, then the VR counselor will work to place the Injured Worker in the private sector.

Vocational Rehabilitation

- Vocational Testing and Counseling.
- Up to 2 years of formal training in new career field is possible, depending on transferable skills and likelihood of increasing Injured Workers' wage earning capacity.

Wage Loss Compensation

- If, upon return to work, the Injured Worker is earning less than what their date of injury job currently pays, the Injured Worker will receive wage loss compensation for the difference between what they are actually earning and what their date of injury job currently pays.

Medical Coverage

- Continues so long as there are residuals of the work related injury.
- There is no time limitation.
- There is no dollar value limitation.

DoD 1400.25-M

Sub Chapter 810
Injury Compensation

Sub Chapter 810.3.8 states:

First Line Supervisors shall:

DoD 1400.25-M
Sub Chapter 810.3.8

1. Enforce Safety and Health regulations.
2. Ensure that the location and telephone number of emergency medical facilities are made known at the work site.
3. Ensure that employees know when and how to report occupational injuries and illnesses.

DoD 1400.25-M
Sub Chapter 810.3.8

4. Obtain training in, and have a good understanding of, the Electronic Data Interchange (EDI) application when filing claims for injuries and illnesses under FECA.

DoD 1400.25-M
Sub Chapter 810.3.8

5. Ensure that employees know they have the freedom to choose a treating physician and send injured employees for medical treatment when a traumatic injury is reported. If an employee refuses treatment, document the facts of the situation as reported and investigate as necessary.

DoD 1400.25-M
Sub Chapter 810.3.8

6. Ensure COP is reported accurately and completely for time and attendance purposes.
7. In conjunction with the CPO/HRO's staffing employment division, identify positions or duties to make light duty offers.
8. Ensure doctors are notified in writing of possible duty accommodations.

DoD 1400.25-M
Sub Chapter 810.3.8

9. Report all injuries and illnesses promptly to the Injury Compensation Program Administrator (ICPA).
10. Promptly complete injury compensation forms and send them to the ICPA.
11. Report injuries and illnesses as required by governing safety regulations.

DoD 1400.25-M
Sub Chapter 810.3.8

12. Make decisions regarding whether to controvert COP based on information available.
13. Maintain continued personal contact with the injured employee as the disability warrants.

DoD 1400.25-M
Sub Chapter 810.3.8

14. Enforce safety regulations and the wearing of required protective equipment and clothing and take appropriate disciplinary action against employees for failure to comply.

References

- Title 5, USC, Subpart G, Chapter 81
- Title 20, CFR, Chapter 1, Subchapter A, Part 1, and Subchapter B, Parts 10 and 25
- DoD Directive 1400.25 Subchapter 810
- CA-810 Handbook (OWCP publication)

Questions

Federal Employees' Compensation

Supervisor Responsibilities